

REMARKS

This paper is responsive to the Office Action mailed on October 15, 2008 (the “Office Action”). Claims 18 and 30 are currently amended to further clarify antecedent basis for a claim term. New claim 33 is added. Claims 1, 2, 7, 8, 12, 13, and 15-17 were previously canceled. Therefore, claims 3-5, 9-11, 14 and 18-33 are pending in this application. No new matter has been added by this amendment.

CORRECTION OF APPLICANT’S PREVIOUS STATEMENT

In the Petition to Revive filed on June 7, 2007, Mr. Dipak Shah, an agent formerly of record for the Applicant, stated “Applicants discovered the error on May 25, 2007, during a docket review.” Applicant believes this statement to be at least partially inaccurate. Although the first written communication on this matter after abandonment between the Applicant and Applicant’s representative, as well as the Applicant’s first written acknowledgement of intent with respect to the application after abandonment, appears to have occurred on May 25, 2007, it also appears that Mr. Shah knew of the abandonment at least as of April 24, 2006. Still, the communications appear to show that the abandonment was not intentional on the part of the Applicant.

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 18, 3-6, 9-11, 14, 20-22, 28, and 30-31 were rejected under 35 U.S.C. § 103 as being allegedly unpatentable over Catelas (FR 2557441) in view of Lin (U.S. Patent Application Publication No. 2004/0232756) and Heidmann (U.S. Pat. No. 6,616,228). Applicant respectfully disagrees.

One of ordinary skill in the art would not have thought to combine the teachings of Catelas, Lin, and Heidmann. Lin relates to a pad structure for a baby stroller. Baby stroller pads are not reclined by their users, nor does stroller pad design typically include any consideration for lumbar support. Baby stroller pads serve a completely different purpose, and perform a completely different function, when compared with tiltable chair backs with lumbar support. Even if one of ordinary skill in the art of reclining chair design were, by happenstance, to stumble upon the Lin reference, he or she would not have thought to combine any of its teachings with

Catelas or Heidmann, because applying the teachings of either Catelas or Heidmann to the Lin pad structure would render the Lin pad structure *unsatisfactory for its intended purpose*. See MPEP §2143.01(V). Lin recommends the addition of “hot pressed points 26 . . . so that the surface of the airways 24 can get an effect of being flat and tidy to avoid raising of the central areas of the airways 24 by overlarge length of airways 24 to induce unflatness and untidiness of the surface of the pad structure that may influence coziness provided by the pad structure.” (Lin, paragraph [0025]). Thus, Lin actually teaches away from a bulging and/or fluid shifting pocket as Catelas appears to show (see Catelas FIGS. 3-4), because such bulging and/or fluid shifting would induce “unflatness and untidiness of the surface of the pad structure.”

The Office Action even cites “greater comfort to a person sitting in the chair” as an alleged motivation to combine Catelas with Lin (Office Action, page 4), whereas Lin itself expressly states that “unflatness . . . of the surface of the pad structure . . . may influence coziness.” (Lin, paragraph [0025]). Combining the Heidmann flexible back shell with the Lin baby pad would result in even greater unflatness and untidiness, thereby also resulting in a baby pad that is unsatisfactory for its intended purpose. For at least these reasons, Lin is not properly combinable with Catelas and Heidmann. Therefore, claims 18, 3-6, 9-11, 14, 20-22, 28, and 30-31, as well as dependent claims 19, 20, 23-26, 29, and 32 rejected on other grounds, are believed to be in condition for allowance.

NEWLY ADDED CLAIM

Newly added claim 33 is believed to be distinguished over Catelas, Lin, and Heidmann for at least the aforementioned reasons. Further, neither Catelas, Lin, nor Heidmann teach or suggest “wherein as the user reclines the tiltable back, the fluid in the fluid containing cushion at least partially shifts away from a first region where a back or shoulder of the user contacts the fluid containing cushion toward a second region where a lumbar area of the user contacts the fluid containing cushion,” support for which may be found at paragraph [0020] of the present specification.

CONCLUSIONS

The remaining pending claims are believed to be in condition for allowance. Reconsideration and withdrawal of the rejections, and prompt passage of the application to allowance is respectfully solicited.

Respectfully Submitted,
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